



PATENT
Attorney Docket No. 101.0042-05000
Customer No. 22882

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9-4-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Gary Karlin Michelson, M.D.)
Serial No. 10/098,683)
Filed: March 15, 2002)
For: SPINAL IMPLANT CONTAINING)
BONE MORPHOGENETIC PROTEIN)
(as amended))

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Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed within three months of the filing date of the above-referenced application.

A copy of the following listed non-English document is enclosed together with a copy of the English language version of a search report from the European Patent Office in a corresponding application citing this document and setting forth the relevance thereof:

1. German Patent No. 26 49 042, dated January 5, 1978.

2. European Search Report dated February 12, 2002 from corresponding European Application No. EP 01 12 8856.

Copies of the remaining listed documents were previously cited in a prior application, Serial No. 09/563,705, filed May 2, 2000; Serial No. 09/126,585, filed July 31, 1998; or Serial No. 08/926,334, filed September 5, 1997; upon which applicant relies for the benefits provided in 35 U.S.C. § 120.

English language abstracts/translations of the remaining listed non-English documents are enclosed.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and applicant determines that the cited documents do not constitute "prior art" under United States law, applicant reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: May 1, 2002

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